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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.695 OF 2005
IN
SUMMARY SUIT NO.1367 OF 2005

Time Prints)..Plaintiff

Versus

M/s.Donear Industries Ltd.)..Defendants

Mr.Vipul Shukla for the Plaintiff.

Mr.Mahesh Londhe i/b.Sanjay Udeshi & Co. for the Defendants.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 10TH APRIL 2006

P.C.:

. The Plaintiff has filed the present Suit for recovery of an amount of Rs.81,530/- along with interest on Rs.41,669/- at the rate of 24% per annum. This amount is claimed in respect of stickers printed by the Plaintiff and delivered to the Defendants.

2. The defence raised by the Defendants is that they have already deposited an amount of Rs.50,000/- pursuant to the order passed in the Winding Up Petition filed by the Plaintiff. That order permitted them to deposit the amount and in the event such a Suit was filed, the amount would stand transferred to the Suit

account. The Defendants have admittedly deposited this amount. The other defence raised is that the Suit is barred by limitation since the first invoice is dated 26th June 2000 and the Suit has been filed in March 2005.

3. Heard Counsel.

4. Considering the defences raised and the fact that Rs.50,000/- has already been deposited by the Defendants, conditional leave granted to the Defendants to defend the Suit.

5. The Prothonotary & Senior Master to invest the amount of Rs.50,000/- already deposited by the Defendants in a Fixed Deposit of a Nationalised Bank initially for a period of three years, to be renewed thereafter till the pendency of the Suit. The Suit shall then be transferred to the list of Commercial Causes.

6. Summons for Judgment disposed of accordingly.